(3)

CF-100

Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO. 970 /2005

PETITTIONER:

Sri Mahamaya Devi Co-Operative Housing Society Through: The President Vinay Nampalliwar S/o A.R. Nampalliwar,Aged about 40 years, R/o Chhota Pa a, Raipur C.G.

VERSUS

RESPONDENTS

1) The state of Chhattisgarh Through the Revenue secretary, D.K.S. Bhawan, Raipur C.G
2) The Collector, Raipur C.G.
3) The Nazul Officer, Raipur C.G.

P.R. No. 5411/05
Presented by Shri S.K. Shrivastava
dated 22/6/05

PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS, DIRECTIONS AND/OR ORDERS DETAILS OF THE PETITION

(25)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.970/ **सन्** 2005

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

17-3-2005

Mr. Satish Chandra Verma, counsel for the petitioner.

Mr. Ravi Ranjan Sinha, Panel Lawyer for the State/respondents.

Heard both the counsel on admission.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India, with a grievance that respondent No.1 is proceeding under Section 51 of the Chhattisgarh Land Revenue Code, 1959 (hereinafter referred to as 'the Code'), on an application moved by the two unconcerned persons namely, Surajbali Nishad & Rajkumar Nishad, both sons of Late Manglu Ram Nishad.

Brief facts leading to filing of this writ petition are that as per the petitioner's case, the petitioner is a duly registered Society under the provisions of the Co-operative Societies Act. The petitioner is running a Co-operative Society scheme with a ~~motive~~ purpose to provide housing facility to the downtrodden people. The registration certificate of the petitioner is Annexure P-1. The petitioner Society had applied before respondent No.1, the State Government, in the year 1997 for allotment of a piece of Government land for the purpose of construction of houses for the members of its Society. In pursuance of that application the respondents allotted a piece of land on 28.12.2001 bearing Khasra No.360/1 area admeasuring 89,928 sq.ft. situated at Telibandha, Patwari Circle No.113, Raipur, and lease deed (Annexure P-2) was also executed

(पीछे देखिये)

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

by the respondents in favour of the petitioner, and even the physical possession was given to the petitioner by respondent No.2 demarcating the piece of land. Demarcation and Panchanama report is Annexure P-3.

Further case of the petitioner is that after getting physical possession of the land, the petitioner had started groundwork on the land in question, however, all of a sudden two strangers, named above, filed an application under Section 51 of the Code before respondent No.1 stating that they are in possession of the land in question, and they started threatening and creating hurdles in the way of the petitioner. Even without any enquiry or looking to the locus of the above two persons, respondent No.2 entertained the application under Section 51 of the Code. Copy of the application is Annexure P-4. No documents have been filed by those persons in support of the application. Therefore, the action of respondent No.1 by entertaining that application is illegal, incorrect and unsustainable in the eye of law.

In this connection, Section 51 (1) of the Code envisages that

> "The Board and every Revenue Officer may, either on its/his own motion or on the application of any party interested review any order passed by itself/himself or by any of its/his predecessors in office and pass such order in reference thereto as it/he thinks fit."

Learned counsel for the petitioner submits that notice of that application has already been given to the petitioner.

(पीछे देखिये)

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Para 3 of the application moved by the two persons named in the previous part of this order mentions that the land in question is in possession of the petitioner and their family since last 40 years; they are doing agricultural operations on this land and also residing; even their possession has been mentioned in the revenue records; even the Patta has been issued in their favour; they are paying Rs.2,100/- land rent per year; and the Patta is in the name of the mother of the applicants who died on 9-5-1995. Therefore, in view of the allegations in para 3 of the application filed by Surajbali Nishad & Rajkumar Nishad, it has been specifically mentioned that they are in possession of the land in question, they have constructed their house, doing agricultural operations on the land and residing there, and also paying land rent of Rs.2,100/- per year, as such, that land has been allotted to the petitioner herein illegally. On this application, respondent No.1 is still inquiring and has not passed any order detrimental to the petitioner. Moreover, the petitioner has been given show cause notice and he is entitled to file reply of the same and contest the application. Therefore, it cannot be said that Surajbali Nishad & Rajkumar Nishad are not interested party and respondent No.1 is entertaining their application without any reason or rhyme. Moreover, those persons are not made party in this writ petition.

Therefore, I am of the considered opinion that at this stage, stalling the proceedings, which are initiated by respondent No.1, cannot

(पीछे देखिये)

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आदेश पत्रक

मामला क्रमांक W.P.970/ **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Soma	be made. In any case, the writ petition is premature, therefore, it is not maintainable. Accordingly, the writ petition is dismissed, at the admission stage itself. No order as to costs. Consequently, M.(W.)P.No.775/2005 stands disposed of. **Sd/-** **L.C.Bhadoo** **Judge**	

(पीछे देखिये)

23.8.05 1.8.05